

REMARKS

Reconsideration and allowance of the claims of the present application is respectfully requested.

The present application contains 27 claims, among which Claims 12-17 and 26 are rejected, Claims 18-20 are objected to, and Claims 1-11, 21-25 and 27 are withdrawn from consideration due to the Restriction Requirement of March 6, 2005.

Applicants first thankfully acknowledge the Examiner's statement that Claims 18-20 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. However, applicants do not adopt the Examiner's suggestion at the present time for the reasons discussed below.

Claims 12-17 and 26 stand rejected under 35 U.S.C. §102(b) as allegedly anticipated by Hamed et al. Anales de Quimica 1994, 90, 359-364 (hereinafter "Hamed et al."). More specifically, the Examiner alleges that compound XIVc in Table I of Hamed et al. falls within the scope of formula (I) of Claim 12, and thereby anticipates Claim 12 and the dependent claims thereof. The Examiner also states that the proviso in Claim 12 does not exclude compound XIVc for the use of the term "phenyl".

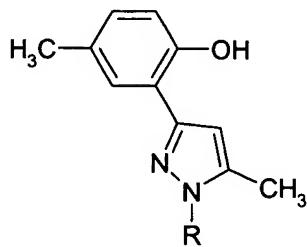
Applicants respectfully submit that Hamed et al. does not anticipate compounds of formula (I) of the present invention because compound XIVc disclosed in Hamed et al. does not fall within the scope of formula (I) of Claim 12.

It is axiomatic that anticipation under §102 requires that the prior art reference disclose each and every element of the claim to which it is applied. In re King, 801 F.2d, 1324, 1326, 231 USPQ 136, 138 (Fed. Cir. 1996). Thus, there must be no differences between the subject matter of the claim and the disclosure of the prior art reference. Stated another way, the reference must contain within its four corners adequate direction to practice the invention as

claimed. The corollary of the rule is equally applicable: Absence from the applied reference of any claimed element negates anticipation. Kloster Speedsteel AB v. Crucible Inc., 793 F.2d 1565, 1571, 230 USPQ 81, 84 (Fed. Cir. 1986).

According to Table 1 on pages 362-363 of Hamed et al., compound XIVc has a structure as follows:

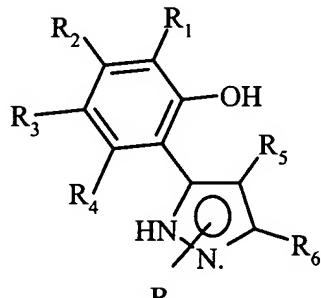
Compound XIVc of Hamed et al.:



, wherein R is Ar or -CONH₂.

The present invention is directed to a compound of formula (I) as shown below:

Formula (I) of the present invention:



, wherein R₇ is a substituent attached at one of the two

nitrogen atoms of the pyrazole ring having the formula CONHR₁₀, CSNHR₁₀, SO₂R₁₀, COR₁₀ or COOR₁₀.

In view of the above-shown structures, R in compound XIVc of Hamed et al. and R₇ in formula (I) of the present invention are substituents on the nitrogen of the pyrazole ring. According to the definition of R₇ in formula (I) of the present invention, it cannot be an Ar group. Thus, compound XIVc wherein R is Ar is not encompassed by formula (I) of the present invention.

As shown in the structures above, R₅ and R₆ in formula (I) of the present invention are on the 4 and 5 positions of the pyrazole ring, respectively. The corresponding 4 and 5 positions of the pyrazole ring in compound XIVc of Hamed et al. are hydrogen and methyl, respectively. It is notable that the proviso of Claim 12 recites that “when R₇ is CONH₂ or CSNH₂ and R₅ is H or CH₃, then R₆ is not H, CH₃ or phenyl group.” In other words, unlike compound XIVc of Hamed et al., when R₇ is CONH₂ and R₅ is H, R₆ in formula (I) of the present invention is not CH₃. That is, the proviso of Claim 12 specifically excludes compound XIVc when R is –CONH₂. Applicants also believe that the reference to R₆ as not being a phenyl group when R₇ is CONH₂ or CSNH₂ and R₅ is H or CH₃ is not relevant to compound XIVc of Hamed et al.

Since Hamed et al. fail to disclose essential limitations of the claimed subject matter, applicants submit that Claim 12 and the dependent claims thereof are not anticipated by the disclosure of Hamed et al.

The §102(b) rejection has been obviated, therefore, withdrawal and reconsideration thereof is respectfully requested.

In view of the foregoing comments, it is respectfully urged that the Examiner reconsider and withdraw the rejection and pass the present application to allowance.

Respectfully submitted,



Peter I. Bernstein
Registration No. 43,497

Scully, Scott, Murphy & Presser, P.C.
400 Garden City Plaza, Suite 300
Garden City, New York 11530
(516) 742-4343
PIB/YL:dg